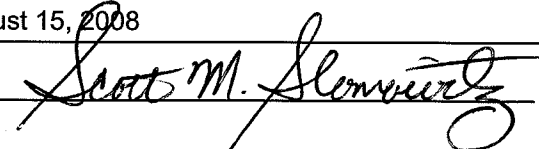
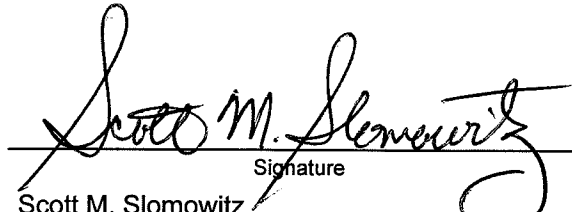


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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) Q1014/20014							
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>August 15, 2008</u></p> <p>Signature <u></u></p> <p>Typed or printed name <u>Scott M. Slomowitz</u></p>		<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%; padding: 5px;">Application Number  10/628,173</td><td style="width: 50%; padding: 5px;">Filed  July 28, 2003</td></tr><tr><td colspan="2" style="padding: 5px;">First Named Inventor  Charles J. THOMAS</td></tr><tr><td style="padding: 5px;">Art Unit  2137</td><td style="padding: 5px;">Examiner  Michael J. Pyzocha</td></tr></table>		Application Number  10/628,173	Filed  July 28, 2003	First Named Inventor  Charles J. THOMAS		Art Unit  2137	Examiner  Michael J. Pyzocha
Application Number  10/628,173	Filed  July 28, 2003								
First Named Inventor  Charles J. THOMAS									
Art Unit  2137	Examiner  Michael J. Pyzocha								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 20px;"><div style="width: 45%;"><p>I am the</p><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>39,032</u></p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></div><div style="width: 50%; text-align: center;"><div style="margin-bottom: 10px;"> _____ Signature Scott M. Slomowitz _____ Typed or printed name</div><div style="margin-bottom: 10px;">(215) 567-2010 _____ Telephone number</div><div>August 15, 2008 _____ Date</div></div></div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"><p><input type="checkbox"/> *Total of _____ forms are submitted.</p></div>									

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
PATENT EXAMINING OPERATION

Applicants: Charles J. THOMAS, et al.

Serial No: 10/628,173

Group Art Unit: 2137

Filed: July 23, 2003

Examiner: Michael J. Pyzocha

Attorney Docket No.: Q1014/20014

Confirmation No.: 5596

For: SYSTEM AND METHOD OF GUARANTEED ANONYMITY OF CABLE  
TELEVISION VIEWERSHIP BEHAVIOR

**REMARKS/ARGUMENTS IN SUPPORT OF  
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In response to the Final Rejection dated, April 1, 2008 and Advisory Action dated July 17, 2008, Applicants request this pre-appeal brief request.

**Error In the Examiner's Rejection**

Examiner's Omissions of One or More Essential Elements Needed for a Prima Facie Rejection

The Examiner has maintained his §103(a) rejection of independent Claims 27 and 28 based on U.S. Patent No. 7,139,723 (Conkwright, et al, hereinafter "Conkwright") in view of U.S. Patent No. 7,055,165 (Connelly, hereinafter "Connelly").

However, the Examiner has failed to show where Conkwright teaches or suggests<sup>1</sup> the following respective limitations of Claims 27 and 28:

substituting said source identification indicia with anonymous identification indicia, **and wherein said anonymous identification indicia can be traced back to the source by a cable operator entity of the cable television system but cannot be traced back to the source by a third party**; ... (Claim 27)

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<sup>1</sup> The Examiner admits that he is only citing Connelly for the teaching of encrypting and decrypting the first message (Advisory Action dated July 17, 2008).

means for generating anonymous identification indicia and for substituting the source identifier indicia with said anonymous identification indicia to form a first decrypted message having said anonymous identification indicia embedded therein, wherein said anonymous identification indicia can be traced back to the source by a cable operator entity of the cable television system but cannot be traced back to the source by a third party;... (Claim 28)

The Examiner's recitation of column 4, line 58 through column 5, line 17, as well as column 11, lines 5-17, of Conkwright do not teach or even suggest such a limitation.

One of the important features of the present invention is that the cable operator is only able to identify the source of the message but is unable to know the content of the message (see Present Application, p. 10, lines 25-27; p. 11, lines 11-19) which is destined for a third party, e.g., the entity that conducts the viewership behavior analysis (see Present Application, p. 10, lines 2-5). As a result, the third party knows the content of the message but has no way of knowing the identity of message sender, and is not able to trace the identity of the sender. In other words, the contents of the message have no connection to its sender in any way, geographically or otherwise.

In contrast, the portion of Conkwright cited by the Examiner permits the ultimate user of the transmitted data to associate the data with geographic codes (Conkwright, col. 5, lines 4-9). In particular, Conkwright specifies that the preferred embodiment identifies set top box (STB) data by zip code, area code and prefix, or other geographic identifier associated with a region in which a set top box resides. (Conkwright, col. 5, lines 10-14). Conkwright further explains that correlations between STBs and zip codes can be maintained in a cable television or other content provider's billing system; (Conkwright, col. 5, lines 14-16). The term "content provider" is an entity other than the cable system operator. The presence of such correlations between STBs and

Application No. 10/628,173

Response to Final Rejection dated April 1, 2008/Advisory Action dated July 17, 2008

Pre-Appeal Brief Request for Review Dated August 15, 2008

zip codes by entities other than the cable system operator teaches away from Claims 27 and 28.

Since the dependent claims, namely, Claims 2-12 and 14-24 ultimately depend from Claims 27 and 28 respectively, they are also patentable for the same reasons, as well as for the particular reasons recently cited in Applicants' Request for Reconsideration dated June 20, 2008.

Thus, Applicants respectfully submit that Claims 2-12, 14-24 and 27-28 are in condition for allowance. Accordingly, prompt and favorable examination on the merits is respectfully requested.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance and that the Review Panel should order the Examiner to withdraw the rejections. Favorable consideration by the Review Panel and prompt allowance of the claims are respectfully requested.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,  
COHEN & POKOTILOW, LTD.

By: 

Scott M. Slomowitz  
Registration No. 39,032  
Customer No. 03000  
(215) 567-2010  
Attorneys for Applicants

August 15, 2008

Please charge or credit our  
Account No. 03-0075 as necessary  
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consideration of this submission.